

PUBLIC POLICY: **WIOA – 2025-01**
Workforce Innovation and Opportunities Act (WIOA)

SUBJECT: For the Development of On-the-Job Training Activities (OJT)

PURPOSE

To remain competitive in an increasingly globalized economy, we must invest in our workers and provide them with the training and skills to succeed in the job market. The work-based training provided by the Workforce Innovation and Opportunity Act (WIOA) presents a great opportunity to encourage greater employer participation, implement sector strategies, and encourage industry partnerships. This type of training allows employers to train their employees while continuing to be productive members of the workforce.

On-the-job training contracts may be awarded to public or private for-profit or not-for-profit entities. For this activity, the employer is required to retain the participant after the training is completed.

For such purposes, the Local Labor Development Board of the Guaynabo-Toa Baja Local Area (hereinafter “Local Board”) promulgates the following Public Policy to establish the criteria for On-the-Job Training (OJT) Services.

LEGAL BASIS

- *Workforce Innovation and Opportunity Act or Workforce Innovation and Opportunity Act (WIOA), Sections 3(44); 134(c)(3)(H); and 181.*
- *TEGL 21-16, Change 1: Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance (July 30, 2021).*
- *TEGL 19-16: Guidance on Services Provided Through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) (March 1, 2017).*
- *TEGL 13-15: On-the-Job Training (OJT) Wage Limits and Reimbursement Rate Exemptions for Employment-Driven National Emergency Grants (NEGs), Dislocated Worker Training, and Sector Partnership (February 23, 2016).*
- *20 CFR §680.320(b) 20 CFR §§680.700 - 730*

- 2 CFR §200 - (“Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”).
- TEGL 10-16, Change 3: Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs, (June 11, 2024).
- DDEC-WIOA-02-20 - Technical Assistance Guidance for Youth Program Elements, (July 7, 2020).
- DDEC- WIOA-PP-04-22, Amendment 3- Requirements for Work-Based Training (WBT) Activities under the Workforce Innovation and Opportunity Act (WIOA), (October 2, 2024).
- WIOA Desk Reference: Incumbent Worker Training
https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent_worker_Training_WIOA_Desk_Reference , Employment and Training Administration, January 2017.

DEFINITIONS

1. **On-the-Job Training (OJT):** Structured training provided by a public or private sector employer, whether for profit or not-for-profit, to a wage-earning participant while performing productive labor in a job that:
 - a. Provides knowledge and/or skills essential for full and adequate job performance;
 - b. Reimburses the employer up to 50 percent of the participant's wages (in limited circumstances up to 75 percent) for the extraordinary costs of providing the additional OJT-related training and supervision;
 - c. Is limited in duration as appropriate to the occupation in which the participant is being trained, taking into consideration the skills required for the occupation, the content of the training, the participant's academic and occupational skill level, the participant's prior work experience, and the participant's service strategy, as applicable.

The rate of reimbursement to the employer may change upon a waiver that is approved by the Federal Department of Labor.

2. **Fair Labor Standards Act**, 29 U.S.C. § 203, et seq., (FLSA) sets standards for minimum wage, overtime pay, and employment of minors, affecting full-time and part-time workers in the private sector and in the federal government, as well as in state and local governments.
3. **O*NET:** The online occupational classification system that provides a common language for defining and describing occupations. The O*NET database is the primary source of occupational information in the United States. The website address is

onetonline.org.

4. **Small and Medium Enterprises (“SMEs”):** the State Law No. 120 of July 31, 2014, known as the Incentives for the Generation and Retention of SMEs Jobs Act, classifies SMEs as:

- a. Micro enterprises: generate a gross income of less than five hundred thousand dollars (\$500,000) each year, and employ seven (7) employees or less;
- b. Small businesses: generate a gross income of less than three million dollars (\$3,000,000) each year, and employ twenty-five (25) or less full-time employees or the equivalent thereof as such term is defined in this Act; and
- c. medium-sized companies: generate a gross income of less than ten million dollars (\$10,000,000) each year, and employ fifty (50) employees or less or its equivalent as such term is defined in the Act.

5. **Industry sector or occupation in demand:**

- a. An industry sector that has a substantial current or potential impact (including jobs leading to self-sufficiency and growth opportunities) on the local, state, or regional economy, as appropriate, and that contributes to the growth or stability of other businesses related to industry sectors;

Or

- b. An occupation that has or projects to have a number of jobs (including jobs leading to self-sufficiency and growth opportunities) in an industry sector that have a significant impact on the local, state, or regional economy. The determination of whether an industry sector or occupation is in demand shall be made by the State Board or the Local Board, as appropriate, using state and regional business projections and labor market information.

6. **“Specific Vocational Preparation” (SVP):** refers to the amount of time required for an employee to learn skills, acquire information and develop the agility necessary for average performance in a specific position. Training can be acquired in school, work, military, institutional or vocational environment. The orientation time required for a qualified employee to become accustomed to the special conditions of a new job is not included within the SVP.

The following table contains an explanation of the different levels of SVP:

Specific Vocational Preparation (SVP)

Level	Time
1	Short demonstrations only
2	Any beyond a short demonstration up to and including one month
3	More than one month up to and including three months
4	More than three months up to and including six months
5	More than six months up to and including one year
6	More than one year up to and including two years

7	More than two years up to and including four years
8	More than four years up to and including ten years
9	More than ten years

PUBLIC POLICY

A. ON-THE-JOB TRAINING ACTIVITY (“OJT”)

WIOA Section 3(44) defines the term “On-the-Job Training” (OJT) as training provided by an employer to a participant who receives wage compensation, while performing productive work that:

1. Provides knowledge or skills essential to the full and proper performance of the work for which he or she is being trained.
2. It’s available through a program that reimburses the employer fifty percent (50%) of the participant's wages. The reimbursement may be higher in accordance with Section 134(c) (3) (H), for extraordinary costs in providing the training and additional supervision related to the training.
3. Its duration is limited to the time necessary to obtain the knowledge related to the occupation for which training is being provided. This will take into consideration, in addition to the content of the training, previous employment experience, and the participant's service strategy, as appropriate. **The Local Board shall establish up to a maximum of one thousand forty (1,040) hours for the on-the-job training activity.**

OJT benefits employers by reducing the cost of training new employees, the employer designs on-the-job training, the training is aligned with the skills required to perform the job tasks, and it is a long-term investment in the company. The OJT benefits the candidate by providing the opportunity to “earn as you learn” in a hands-on environment, acquire job skills with the possibility of career advancement, and the opportunity to maintain long-term employment.

The core purpose of an OJT is to encourage public and private for-profit and non-profit employers to hire individuals and teach them the skills necessary to perform satisfactorily on the job or upgrade the skills of an eligible worker.

Not all jobs are appropriate for an OJT. The emphasis on training automatically eliminates all jobs that do not require more than a brief initial orientation period. Likewise, because reimbursements are intended to compensate the employer for decreased productivity, jobs that pay on commission or for work delivered are not appropriate. **Other jobs not suitable for OJT are seasonal, temporary, and part-time jobs, since the desired outcome of OJT is long-term retention in full-time employment leading to self-sufficiency.**

B. GENERAL PARTICIPANT ELIGIBILITY REQUIREMENTS FOR WORK-BASED TRAINING

SERVICES

The selection of OJT candidates should be carefully governed by a well thought-out process. The skills already possessed by the participant should be considered along with the skills needed to perform the job.

1. OJT programs can be particularly successful for individuals who:
 - a. Are unable or unlikely to obtain employment without retraining;
 - b. Are low-income, receive unemployment insurance, or public assistance, or need to earn a wage while learning an occupational skill;
 - c. Are individuals with barriers to employment who need help finding their next job;
 - d. Are individuals who can learn the skills necessary for the occupation more easily and thoroughly within the work setting;

and/or

 - e. They need supervision as they learn occupation-specific skills.
2. OJT activity may also be offered to eligible persons who are already employed when:
 - a. The employee is not earning a wage that allows him/her to be self-supporting or is underemployed;
 - b. Receives wages comparable to or less than wages earned in previous employment, as determined by local board policy;
 - c. Meets the requirements established for an OJT;

and

- d. The on-the-job training is related to the introduction of new technology, new service products or procedures, promotions to new jobs requiring additional skills, or for another appropriate purpose identified by the local board.

Workers who already possess a substantial portion of the skills required to perform the job should not be considered for OJT positions.

3. All training services, including Work-Based Training (WBT), will be available to employed or unemployed individuals when:
 - a. The One-Stop Management Center or American Job Center (OSC/AJC) or a partner thereof, after an interview or assessment determines that the individual:
 - (i) Only with the provision of career services is unlikely or unable to obtain or retain employment that leads to self-support or to a salary comparable to or greater than that earned in the previous employment;
 - (ii) Who has a need to obtain or retain employment leading to self-support or to a salary comparable to or greater than that earned in the previous employment; and
 - (iii) Who has the skills and qualifications to successfully participate in the

selected training service.

- b. The selected training program is directly linked to employment opportunities in the local area or planning region (in-demand occupations and industries set forth in the Local Plan), or in another area where the individual is willing to travel or relocate.
 - c. A new interview or assessment of the participant will not be required if the OSC/AJC or a partner of the OSC/AJC determines that it is appropriate to use an interview or assessment recently conducted by another education or training program.
- 4. Participants are required to meet program eligibility requirements for each funding source, i.e., WIOA Adult, Dislocated Worker and Youth programs, National Dislocated Worker Grants, (NDWG) or the Trade Adjustment Assistance (TAA) Program.
 - 5. When an applicant is referred by an employer, he/she may be considered for an OJT with that employer only if he/she meets the eligibility requirements for WBT services as set forth in this policy.

An individual who possesses knowledge or skills essential to the full and proper performance of the specific occupation for which OJT is proposed cannot be considered for OJT in that occupation. While strict adherence to this principle is inherent in the OJT concept, in reality many jobs are unique and do not have an exact match of the skills required for jobs with other employers, even when the job title is identical. Therefore, the case manager can justify the need for OJT through an evaluation process. In addition, lack of updated skill application or a change in technology may require additional training.

C. EMPLOYER ELIGIBILITY REQUIREMENTS

- 1. The employer must demonstrate financial solvency.
- 2. The employer will offer OJT participants continued employment with wages, benefits and conditions of employment equal to those provided to its regular employees who have worked for a similar period of time doing the same type of work.
- 3. This training activity will not entail a displacement of any employee from the company, nor will it alter promotional opportunities for current employees.
- 4. An OJT agreement will not be entered into with an employer who has laid off a regular employee, or has reduced the workforce to hire employees under this agreement.
- 5. The employer shall not have workers currently at risk of layoffs, or be involved in a labor dispute.
- 6. Los fondos del OJT no se utilizarán para ayudar, promover o disuadir directa o indirectamente a una organización sindical;
- 7. OJT funds will not be granted to employers who have relocated their operations and, as a result of that relocation, employees have been laid off, until the company has operated in the new location for one hundred twenty (120) days.

If the company is 120 days old or less and the business has never operated in another jurisdiction, they must submit the following documents:

- a. Projected Financial Statement (3 years);
 - b. Business Plan or memorial explaining operations, objectives, goals, and actions to achieve them in the short and long term;
 - c. Certification from the company that they are not currently or have been in bankruptcy proceedings within the last five (5) years.
8. Nor may a contract be entered into with an employer that has been debarred or suspended from participation by any federal department or agency, or declared ineligible to participate.
 9. Pursuant to WIOA regulations (20 CFR §683.200), a participant will not be assigned to an OJT activity if a member of the participant's immediate family will directly supervise the participant. For the purposes of this Public Policy, the term "immediate family" includes a spouse, child, son, son-in-law, daughter-in-law, father, mother, father-in-law, father-in-law, brother, sister, brother-in-law, uncle, nephew, niece, stepparent, stepchild, stepchild, grandparent, or grandchild.
 10. Employers shall agree to cooperate with monitoring efforts as required by WIOA, shall comply with all other applicable local, state and federal rules and regulations, and shall respond to requests from Local Board staff for participant wage and retention information.
 11. When selecting an employer, consideration should be given to general business practices in terms of working conditions (health and safety), availability of health benefits, sustainable wage structure, turnover rate, adequate equipment and personnel available to conduct training, and compliance with city ordinances and state and federal laws.
 12. The employer shall comply with the equal opportunity and nondiscrimination provisions of WIOA laws and regulations.

D. OCCUPATION REQUIREMENTS

In determining whether training for an occupation is eligible to be conducted through an OJT, the following criteria should be considered:

- a. The occupation must be part of the market in occupational demand.
- b. The occupation must be one that requires a skill level of at least four (4) or higher, according to the Specific Vocational Preparation ("SVP").
- c. The occupation must provide potential for growth in the occupation.
- d. The occupation must meet the performance measure related to median earnings.
- e. The occupation may not be related to political or religious activities, including the maintenance, operation, or construction of a facility that is or will be used for sectarian education or used as a place of religious worship or where religious participation is

required.

- f. The occupation must provide the participant, when he/she is an employed person, with increased earnings and additional skills.
- g. Occupations may not be seasonal, temporary services, part time, or have a high turnover rate.
- h. Las ocupaciones no pueden ser de temporadas ("seasonal"), empleos temporeros ("temporary services"), a tiempo parcial ("part time") o que tengan un porcentaje alto de rotación de personal ("turnover").
- i. They cannot be occupations in which the main source of income is tips or commissions, unless they are recorded and reported on the withholding voucher (W-2PR).

E. OJT WAGE REIMBURSEMENT RATE (20 CFR §680.730)

The Local Board establishes an increase in the reimbursement rate of up to seventy-five percent (75%) taking into account the following criteria:

- 1. The characteristics of participants if they are "individuals with barriers to employment" as defined in WIOA Sec. 3 (24);
- 2. The size of the employer, with emphasis on small and medium-sized businesses;
- 3. The quality of training and advancement opportunities offered by the employer;
- 4. The employer's track record in providing training and promotion opportunities, such as, for example, that the training is for an in-demand occupation and can lead to an industry-recognized credential;
- 5. The participant's salary level and benefits, during and after training;
- 6. Type of industry;
- 7. Relationship of the training to the participant's competitiveness;
- 8. Number of employees to be trained; **and**
- 9. Such other factors as the State or Local Board may determine to be appropriate, which may include: the number of employees participating, the salary levels, and benefits of the employees (both at the beginning and at the end of the training), and the relationship of the training to the competitiveness of the participant.

The Local Board will document the factors used in deciding to increase wage reimbursement levels above fifty percent (50%) to seventy-five percent (75%).

It shall be the policy of the Local Board to give priority in the investment of OJT funds to Micro, Small, and Medium Enterprises (MSMEs) in the Region.

Average Hourly Wage

The Local Board establishes, through this policy, a wage ceiling of up to eighteen dollars per hour (\$18.00) for On-the-Job Training (OJT) activities. This wage ceiling will be based on the average hourly wage for the occupation, according to Department of Labor and Human Resources (DTRH) statistics, the most recent Census, or the most recent labor market survey published by the Board or its designee at the time the proposal is evaluated. This limitation on training reimbursement provides grantees with flexibility in the type of occupations to be trained, while maximizing the number of OJT opportunities and allowing priority to be given to innovative and hard-to-recruit occupations.

Employers must provide OJT participants with the same benefits and working conditions as a current employee of the company who performs duties similar to those performed by the participant WIOA Sec. 181 (a)(1) (A).

The Local Board may enter into contracts with employers who choose to pay participants a wage above the statewide average. However, the employer may not be reimbursed for training that exceeds the percentage determined by the maximum level scale set forth in this policy.

If the wage for the position is below the maximum level according to state employment statistics for a similar occupation, the Local Board will assess OJT wage reimbursement to be based on this lower level and/or as set forth in this policy. The OJT participant shall not receive a higher payment solely because the state average wage allows for a higher reimbursement threshold.

F. WAIVERS

Waivers shall be approved by the Federal Department of Labor's Training and Employment Administration (DOLETA), pursuant to WIOA section 134(c)(3)(H)(i) and 20 CFR part §680.720(b), to increase reimbursement to employers for OJT activity by up to 90%.

The Local Board will avail itself of waivers approved by DDEC to increase employer reimbursement for OJT participants up to 90% or as otherwise provided in the current waiver in effect. The PDL must be notified in writing for this purpose.

The reimbursement percentage will be calculated based on the size of the company's workforce:

1. For employers with fifty (50) or less employees - up to ninety percent (90%) reimbursement.
2. For employers with fifty-one (51) to two hundred and fifty (250) employees - up to seventy-five (75%) of reimbursement.
3. For employers with more than two hundred and fifty (250) employees - statutory

reimbursement of fifty percent (50%).

G. GENERAL PROVISIONS

1. OJT participants will work no less than thirty-five (35) hours per week.
2. The O*Net OnLine occupational information system and the SVPs listed for each occupation will be used as a reference guide in determining the length of the OJT. In addition, the skills required for the occupation, the participant's academic and occupational skill level, previous work experiences, and the participant's individual employment plan will be considered.
3. OJT funds will be spent on participant wages, not fringe benefits.
4. It shall be a requirement for all employers who wish to benefit from the On-the-Job Training (OJT) grant funds provided by WIOA, to retain the participant who has satisfactorily completed the training for an additional minimum period of six (6) months after the activity has concluded.
5. OJT contracts will not be awarded to companies that have not demonstrated program participant retention results in previous contracts.
6. The Local Area will implement outreach strategies to identify and attract eligible individuals, including job fairs, community networking, and collaborations with governmental and non-profit agencies.
7. A comprehensive skills assessment will be conducted for each participant to identify gaps and training needs.
8. An Individualized Employment Plan (IEP) or Individualized Service Strategy (ISS) will be developed for each participant, establishing measurable goals and training strategies.
9. The LWDA and JL will establish partnerships with business associations and economic development organizations to promote the benefits of the WIOA program. Information campaigns will be conducted on wage incentives and subsidies available to employers.
10. Employers will be able to refer potential candidates for training programs, provided they meet WIOA eligibility criteria.
11. Support services such as transportation assistance, child care and specialized equipment will be provided based on the participant's needs.
12. OJT activity will be subject to state and/or local monitoring which may include, but is not limited to, sample review of OJT contracts, invoice payments, and participant files to ensure compliance with federal, state, and local policies.

EFFECTIVENESS

This public policy shall become effective immediately upon approval. This policy supersedes any previous policy regarding OJT On-the-Job Training services at LWDA-GTB.

In Guaynabo, Puerto Rico, on the 11 of February, 2025.



Oriel Ramírez Rodríguez
President